

DOCKET: CU-2652

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

APPLICANT: Ute GRIESBACH et al )  
SERIAL NO: 09/936,746 )  
TITLE: COSMETIC PREPARATIONS )  
COMPLETION OF PCT/EP00/01837 filed 03 March 2000 )

The Commissioner for Patents  
Washington, D.C. 20231

**RECEIVED**

APR 29 2003

**AFFIDAVIT**

TECH CENTER 1600/2900

I, Richard J. Streit, being duly sworn, declare as follows.

I am a patent partner of the law firm of Ladas & Parry, 224 South Michigan Avenue,  
Chicago, Illinois 60604.

I am the primary partner responsible for previewing all communications from the U.S.  
Patent Office, including but not limited to Notices of Missing Parts and Office Actions.

In addition, I am the primary partner responsible for overseeing the filing of new U.S.  
patent applications as well as assigning the handling of further prosecutorial matters to other  
patent attorneys in our office.

When instructions from our client were received with respect to this application, I  
oversaw the entry of this application into the U.S. national phase. After the application was  
safely dispatched for filing via Express Mail, the application was assigned to W. Dennis  
Drehkoff, a patent attorney in our office for further prosecutorial matters.

Further, when mail is received in our office, our mail clerk opens the same and date-  
stamps the covering letter for each item. All mail relating to patent matters is then brought to  
me for review and distribution to the appropriate party. For communications having a due  
date, the mail is placed in a docket tray located on the desk of our docket patent paralegal,

-2-

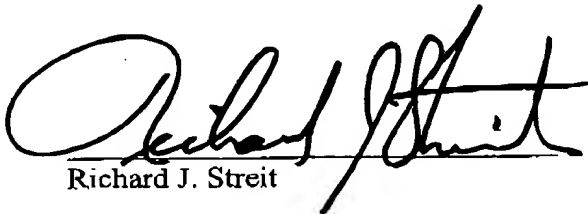
Ms. Debra M. Szumowski. She then enters the term into our manual and computer docketing system and generates dockets for each of the responsible attorneys with due dates in sequential order.

I have carefully examined the file on the subject application and I find that the only communication received from the Patent Office is the return postcard, date-stamped by the U.S. Patent Office acknowledging receipt of the entry of a new U.S. patent application from the PCT international application stage. A Notification of Missing Requirements does not appear in the file.

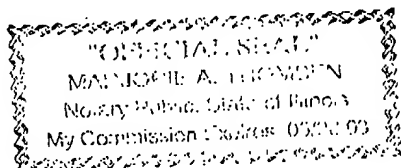
Supporting Affidavits strongly indicate that the Notification of Missing Requirements was never received in this office, nor docketed in accordance with our normal practice.

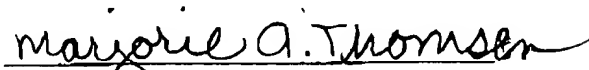
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 101 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated this 26<sup>th</sup> day of March, 2002.

  
Richard J. Streit

Sworn to and subscribed before me this      day of March, 2002



  
Notary Public

DOCKET: CU-2652

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

APPLICANT: Ute GRIESBACH et al )  
SERIAL NO: 09/936,746 )  
TITLE: COSMETIC PREPARATIONS )  
COMPLETION OF PCT/EP00/01837 filed 03 March 2000 )

The Commissioner for Patents  
Washington, D.C. 20231

**AFFIDAVIT**

I, Debra M. Szumowski, being duly sworn, declare as follows.

I am a patent paralegal employed by the law firm of Ladas & Parry, 224 South Michigan Avenue, Chicago, Illinois 60604, since June, 1981.

I am responsible for docketing all matters which have outstanding deadlines, including, but not limited to, Notices of Missing Parts, Office Actions and Notices of Allowance issued by the U.S. Patent Office, as follows:

1. All mail, which includes a date for response to an outstanding matter, is placed in a "docket" tray located near my desk.
2. The appropriate file and records cards are then pulled for each piece of correspondence.
3. The due date is written on the cover sheet of the mail as well as written on the back of the record card thereof. In addition, I indicate the responsible attorney's initials, the current date and my initials on the right hand side of the correspondence to indicate the same has been docketed.
4. The case is entered in our computer in due date order for the appropriate attorney in our office.

-2-

5. The record cards are filed away in due date order as a backup system.
6. If the mail is an Office Action or Notice of Allowance, the mail, together with the file, is then passed to the attorney responsible for the case for further handling. In the event of a Notification of Missing Requirements, the file and correspondence is retained by myself for reporting the deadline to the client and/or filing missing documents related to the application.
7. Weekly docket sheets which includes a list of cases and their corresponding due dates are prepared and given to the attorney responsible for status.

I am also responsible for all "formality" correspondence received from the U.S. Patent Office, including, but not limited to, filing of Declarations/Powers of Attorney and outstanding formality matters, including filing receipts, recordal of Assignment documents, etc.

Accordingly, when a Notice of Missing Parts issues from the U.S. Patent Office, the same is docketed in the manner referred to above.

The file is then reviewed regarding the disposition of the formal documents, including the Declaration/Power and Assignment. If the documents have not been received from the client, a letter is prepared to the client giving an indication of the deadline for filing the same in the U.S. Patent Office. If the documents have been received by the client prior to the receipt of a Notice of Missing Parts, they are held in the file with a term entry for filing which is kept in a separate "termbook". These "terms" are not entered on the attorneys weekly docket as they are "floating terms" for receipt of items not pertaining to outstanding docket deadlines. In the event of PCT international applications entering the U.S. national phase, a "floating term" is kept at the time of entering the U.S. national phase if all formal requirements of the U.S. Office were not met.

In the above-referenced application, the Declaration/Power was received from the

-3-

client on November 26, 2001. A copy of the client's letter enclosing the documents is enclosed as Exhibit A. At that time, the file was pulled and it was noted that the Notification of Missing Requirements was not yet received from the U.S. Office. The documents were held in the file and with a floating term kept. The file was pulled on December 12, 2001 and January 11, 2002 for review, noting that the Notification of Missing Requirements had not been received. Enclosed are pages from my termbook as Exhibit B.

Due to the backlogs reported by the U.S. Patent & Trademark Office with regard to the mail interruption incurred due to the September 11 tragedies as well as the mail interruption by the U.S. Postal Service in October-December, 2001, it was assumed that this application was still in a "review stage" at the U.S. Patent Office, and a further term entry was made for February 12, 2002. On February 12, 2002, the file was again reviewed, noting once again that the Notification of Missing Requirements had still not been received. In order to obtain a filing date under 35 USC 102(e), the appropriate transmittal letter, together with enclosures, was submitted to the U.S. Patent Office via Express Mail on March 5, 2002.

On March 21, 2002, Ms. Person of the PCT Office called our office and spoke with myself regarding the response of March 5, 2002.

Ms. Person indicated that a Notification of Missing Requirements was mailed on or about October 25, 2001 and our response did not include a Request for Extension. I pulled the file and noted to her that a Notification of Missing Requirements was never received from the Office.

Ms. Person then indicated that we should prepare and fax to her a Statement indicating that the Notification of Missing Requirements had never been received in our office.

After the phone call, I pulled the corresponding docket record card, which indicates that no "Action" or "outstanding deadline" was issued that required a corresponding due date

-4-

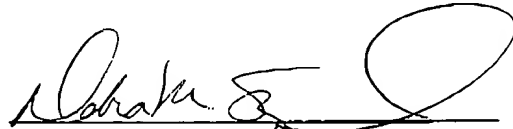
to have been entered on our docket.

Attached as Exhibit C is a copy of the front and back sides of the record card for this application.

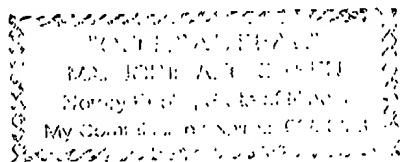
Also enclosed as Exhibit D is a portion of the weekly docket sheet for W. Dennis Drehkoff for the period of December 14, 2001 through December 27, 2001, to which this application would appear had it been entered on the docket for the Notification of Missing Requirements. Confidential material not related to this application has been omitted. It is noted that there is no indication of a docket entry for the referenced application, CU-2652, Serial No. 09/936,746. However, attention is directed to our case Nos. CU-2654 and CU-2657 which are related applications, and for which Notifications of Missing Requirements were in fact received.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 101 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated this 26th day of March, 2002.

  
Debra M. Szumowski

Sworn to and subscribed before me this 26<sup>th</sup> day of March, 2002




  
Notary Public

EXHIBIT "A"

LAW OFFICES LADAS & PARRY  
224 SOUTH MICHIGAN AVENUE  
CHICAGO, ILLINOIS 60604  
USA

*Handwritten notes:*  
Filed for  
not prior reg  
to 12-12-01  
1-12-02  
2-12-02

2001 NOV 26 PM 1:16  
LAD & PARRY  
CHICAGO

Johan H. Gørbitz  
Dag Dawes  
Arild Friberg  
Sindre-Jacob Bostad  
Svein Arne Olsen  
Ellen Holm  
Hege Nymoen  
Ørjan Greiff Johnsen  
Tone Furan Markussen  
Jon Heggstad  
Kristine Aarflot  
Astrid Solberg  
Kristine Rekdal  
Vigdis Opsahl  
Pål Tønna  
Atle Garder  
Merete Lehne  
of counsel  
Pål Gulbrandsen

OSLO, 22 November 2001

YOUR REF.: CU-2656

OUR REF.: 104904 /EH/JE

Via telefax and Courier

US Patent Application No. 09/936,748 based on PCT/EP00/01830  
BIOTEC ASA

Dear Sirs,

We enclose signed Declarations and Assignment documents in the above case, together with a copy of the International Preliminary Examination Report translated into English.

With this Courier shipment, we will also enclose Declarations, Assignments and I.P.E.R.s in the following cases:

PCT/EP00/01837 (US 09/936,746),  
PCT/EP00/01838 (US 09/937,014), and  
PCT/EP00/03193 (US 09/958,056) (translation of I.P.E.R. not yet received)

Regarding the remaining applications for the same applicant, we have not yet received the signed Declarations etc., but hope to be able to forward them to you before the deadlines. If not, extensions will have to be applied for, but please wait as long as possible.

Since several German and one Norwegian inventor are involved in these cases, we have obtained signatures partly on separate forms, and hope this will be in order.

Please let us know if anything is unclear or missing. Thank you for your assistance in these cases.

Very truly yours  
BRYN & AARFLOT AS

*Asta Jensen*  
Asta Jensen

**BRYN & AARFLOT AS**  
Patents - Trademarks - Designs

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S.W.I.F.T.-address:  
XIAN NO KK, OSLO  
Bankers: Kreditkassen  
Acc.Nos.:  
For NOK:  
NO59 6039 0514 185  
For EUR:  
NO83 6011 0447 011  
Postal Acc.:  
NO84 2077 0673 541

DECEMBER

12

WEDNESDAY

EXHIBIT

"B"

THURSDAY

13

DECEMBER

2001 346th day - 19 days follow

2001 347th day - 18 days follow

~~CU-2652~~  
2653  
2655  
2656

~~CU-2332~~  
~~CU-2719~~  
~~CU-2669 (1222)~~



JANUARY

10

THURSDAY

2002 10th day - 355 days follow


~~CO-2689 (119)~~

FRIDAY

11

JANUARY

2002 11th day - 354 days follow

~~CO-1593 (217)~~~~CO-2895~~~~Final for [unclear]  
[unclear] - [unclear]~~~~CO-2664 (217)~~~~CO-2652 2655  
2653 2656 (217)~~~~CO-2771~~ 

FEBRUARY **11** MONDAY

2002 42nd day - 323 days follow

~~\_\_\_\_\_~~ - *CU 2663*

TUESDAY **12** FEBRUARY

2002 43rd day - 322 days follow

Lincoln's Birthday (US)

Chinese New Year

~~\_\_\_\_\_~~ - *CU 2664* ~~\_\_\_\_\_~~

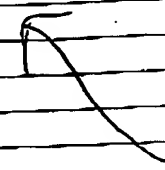
~~\_\_\_\_\_~~ *CU 2652*  
~~\_\_\_\_\_~~ *CU 2656* 

EXHIBIT "C"

FRONT

WDD

U.S. Ser. No. 09/936,746 Filed 09/12/01 Docket No. CU 2652 RJS

Client Bryn & Aarflot A/S - Norway

Inventor(s) Ute GRIESBACH et al

Title COSMETIC PREPARATIONS

US Completion of PCT/EP00/01837 filed March 3, 2000

Div/Cont/Clp of U.S. Ser. No. \_\_\_\_\_ Filed \_\_\_\_\_

Based on German 199 11 056.5 Filed March 12, 1999

Assigned to Biotec ASA % Interest \_\_\_\_\_

☒ NON-CONVENTION ☐ Small Entity YES

BACK

	ACTIONS	AMEND SENT	DATE FILED		ACTIONS	AMEND SENT	DATE FILED
1				6			
2				7			
3				8			
4				9			
5				10			

Final Action Issued \_\_\_\_\_

Allowed \_\_\_\_\_

Received Pat. \_\_\_\_\_ Patent No. \_\_\_\_\_ Dated \_\_\_\_\_

Docket No. CU 2652 RJS WDD Term \_\_\_\_\_

EXHIBIT "D"

December 12, 2001

c/docs/debbie/dockets/patdd.doc

W. DENNIS DREHKOFF

OFFICIAL ACTIONS DATED December 14, 2001 through December 27, 2001

Please return by: December 14, 2001

CASE	REPLY DUE	PREVIOUS EXTS	EXT ASKED	REPLY SENT
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[REDACTED] 12/14/01  
U.S. [REDACTED]  
CU-2311

[REDACTED] 12/16/01  
U.S. [REDACTED]  
CU-2602 Non-Prov. Appin.

AL [REDACTED] 12/18/01  
Proposed US Application  
CU-2692

71 [REDACTED] 12/20/01  
Proposed US Application  
CU-2728

[REDACTED] 12/20/01  
U.S. [REDACTED]  
CU-2097

[REDACTED] 12/23/01  
U.S. [REDACTED]  
CU-2654

[REDACTED] 12/24/01  
U.S. [REDACTED]  
CU-2657

[REDACTED] 12/25/01  
U.S. [REDACTED]  
CU-2116

[REDACTED] 12/25/01F  
U.S. [REDACTED]  
CU-2006

[REDACTED] 12/26/01F  
U.S. [REDACTED]  
CU-2616 (conf. of hearing)

DOCKET: CU-2652

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

APPLICANT: Ute GRIESBACH et al )  
SERIAL NO: 09/936,746 )  
TITLE: COSMETIC PREPARATIONS )  
COMPLETION OF PCT/EP00/01837 filed 03 March 2000 )

The Commissioner for Patents  
Washington, D.C. 20231

**AFFIDAVIT**

I, W. Dennis Drehkoff, being duly sworn, declare as follows.

I am a patent attorney employed by the law firm of Ladas & Parry, 224 South  
Michigan Avenue, Chicago, Illinois 60604.

I am the attorney responsible for all prosecutorial matters with respect of the above  
referenced U.S. patent application. I declare as follows:

1. Pursuant to client instructions of September 6, 2001, this application was filed as a completion of PCT/EP00/01837 as a U.S. national entry of a PCT international application.
2. A transmittal letter (PTO-1390) was prepared and mailed, together with a Statement Accompanying New U.S. Patent Application to Accord the Filing Date of September 12, 2001 under 35 USC 21(a) via regular mail due to the flight suspension by the FAA following the September 11 tragedies. These documents were signed by Richard J. Streit, a partner and primary individual responsible for filing new U.S. patent applications in our office. Once this application was safely filed, the file was assigned to me for further prosecutorial matters.
3. On March 5, 2002, I transmitted a second submission concerning the above U.S.

-2-

patent application, which completed all formality requirements of the Office. This transmittal letter, together with attachments were prepared by Ms. Debra M. Szumowski, a patent paralegal in our office. At that time, I reviewed the file and noted that the Notification of Missing Requirements was not received. However, due to the passage of time since entry into the U.S. national phase, it was decided to file the second response to complete formality requirements to obtain the filing date under 35 USC 102(e).

4. The undersigned hereby declares that he was never made aware of any correspondence having come into our office with respect to the Notification of Missing Requirements. Supporting affidavits strongly indicate that the Notice was never received in this office, nor docketed in accordance with our normal practice.


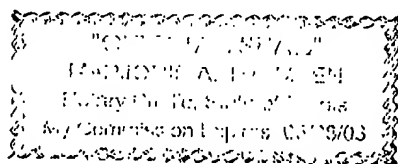
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 101 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated this <sup>27</sup> day of March, 2002.



W. Dennis Drehkoff

Sworn to and subscribed before me this <sup>27</sup> day of March, 2002

  
Notary Public